

STATE CORPORATION COMMISSION

AT RICHMOND, JUNE 6, 2006

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUC-2006-00072

Ex Parte: Amendment of Rules
Governing Disconnection of Local
Exchange Telephone Service

2006 JUN -6 PM 8:24

STATE OF VIRGINIA

ORDER PRESCRIBING NOTICE AND INVITING
COMMENTS OR REQUESTS FOR HEARING

By Order on Reconsideration entered May 10, 1999, in Case No. PUC-1997-00113, the State Corporation Commission ("Commission") adopted Rules Governing Disconnection of Local Exchange Telephone Service ("DNP Rules"),¹ codified originally at 20 VAC 5-400-151 and recodified at 20 VAC 5-413-10 et seq. as a result of the Commission's Final Order in Case No. PUC-2001-00122.

On December 17, 2004, the Virginia Telecommunications Industry Association ("VTIA") filed an Application with the Commission requesting modification of the DNP Rules. The VTIA requested that the DNP Rules be revised to allow toll blocking for non-payment of long distance services, to exempt bundles or packages of services from the DNP Rules, and to permit disconnection of local exchange services and bundled services for failure to pay certain surcharges and fees associated with those services.

That Application was concluded by Final Order entered February 21, 2006.² That Order directed the Division of Communications ("Staff") to prepare proposed rules to amend the

¹ DNP means disconnection for nonpayment.

² See Case No. PUC-2004-00162, *Application of Virginia Telecommunications Industry Association, For modifications to rules governing disconnection of local exchange telephone service*, 20 VAC 5-413-10 et seq.

existing rules based upon certain findings identified in the Order, but also allowed the Staff to include additional definitions and rules that the Staff believed were warranted.

In carrying out those directives, the Staff met and conferred with interested parties who had participated in Case No. PUC-2004-00162; i.e., the VTIA (including representatives from some of VTIA's member companies), the Office of the Attorney General Division of Consumer Counsel ("Consumer Counsel"), and the Virginia Citizens Consumer Council ("VCCC"). The Staff, on April 19, 2006, provided proposed DNP Rules to the Commission and also furnished a copy to the VTIA, Consumer Counsel, and the VCCC.

The Commission will now consider the proposed DNP Rules, which appear in Attachment A, appended to this Order. In addition, the Commission seeks comment from members of the telecommunications industry, other interested parties, and the public on any matter pertinent to the proposed DNP Rules.

NOW THE COMMISSION, pursuant to § 12.1-13 of the Code of Virginia and 5 VAC 5-20-100 of the Commission's Rules of Practice and Procedure, finds that interested parties should be permitted to comment on, propose modifications or supplements to, or request a hearing on the proposed amendment of the DNP Rules (20 VAC 5-413-10 et seq.), which the Commission now considers.

Accordingly, IT IS ORDERED THAT:

- (1) This matter is docketed and assigned Case No. PUC-2006-00072.
- (2) The Commission's Division of Information Resources shall forward the proposed Rules Governing Disconnection of Local Exchange Telephone Service (Chapter 413), Attachment A herein, to the Registrar of Virginia for publication in the Virginia Register of Regulations.

(3) On or before June 26, 2006, the Commission's Division of Information Resources shall make a downloadable version of the proposed Rules Governing Disconnection of Local Exchange Telephone Service, Attachment A, available for access by the public at the Commission's website, <http://www.scc.virginia.gov/caseinfo.htm>. The Clerk of the Commission shall make a copy of the proposed Rules Governing Disconnection of Local Exchange Telephone Service available for public inspection and provide a copy, free of charge, in response to any written request for one.

(4) Interested persons wishing to comment on, propose modifications or supplements to, or request a hearing on the proposed Rules Governing Disconnection of Local Exchange Telephone Service or upon other matters addressed in this Order, consistent with the findings above, shall file an original and fifteen (15) copies of such comments, proposals, or requests with the Clerk of the Commission, P.O. Box 2118, Richmond, Virginia 23218, on or before July 26, 2006, making reference to Case No. PUC-2006-00072. Interested persons desiring to submit comments electronically may do so by following the instructions found on the Commission's website, <http://www.scc.virginia.gov/caseinfo.htm>. Requests for hearing shall state with specificity why such concerns cannot be adequately addressed in written comments.

(5) On or before June 26, 2006, the Commission's Division of Information Resources shall publish the following notice as classified advertising in newspapers of general circulation throughout the Commonwealth of Virginia.

NOTICE TO THE PUBLIC OF A PROCEEDING TO ADOPT
AMENDED RULES GOVERNING DISCONNECTION OF LOCAL
EXCHANGE TELEPHONE SERVICE FOR NONPAYMENT
CASE NO. PUC-2006-00072

By Order dated May 10, 1999, the State Corporation
Commission ("Commission") adopted Rules Governing
Disconnection of Local Exchange Telephone Service

(20 VAC 5-400-151) ("DNP Rules"). These DNP Rules were later recodified at 20 VAC 5-413-10 et seq.

The Commission's Division of Communications ("Staff") has prepared revised DNP Rules on the directive of the Commission, which this Commission is considering for replacement of the current DNP Rules.

Interested parties may obtain a copy of the proposed DNP Rules by visiting the Commission's website, <http://www.scc.virginia.gov/caseinfo.htm>, or by requesting a copy from the Clerk of the Commission. The Clerk's office will provide a copy of the proposed DNP Rules to any interested party, free of charge, in response to any written request for one.

Any person desiring to comment in writing or request a hearing on the proposed DNP Rules may do so by directing such comments or requests for hearing on or before July 26, 2006, to the Clerk of the Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. Interested persons desiring to submit comments electronically may do so by following the instructions found on the Commission's website, <http://www.scc.virginia.gov/caseinfo.htm>. Comments and requests for hearing must refer to Case No. PUC-2006-00072. Requests for hearing shall state with specificity why such concerns cannot be adequately addressed in written comments.

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(6) On or before August 25, 2006, the Staff may file comments on any comments filed by any interested parties.

(7) This matter is continued for further orders of the Commission.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to:

C. Meade Browder, Jr., Senior Assistant Attorney General, Division of Consumer Counsel,
Office of Attorney General, 900 East Main Street, 2nd Floor, Richmond, Virginia 23219;
Richard D. Gary, Esquire, Counsel for Virginia Telecommunications Industry Association,
Hunton & Williams LLP, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond,
Virginia 23219-4074; Irene Leech, President, Virginia Citizens Consumer Council, 4220 North

Fork Road, Elliston, Virginia 24087; all local exchange carriers certificated in Virginia as set out in Appendix A; all interexchange carriers certificated in Virginia as set out in Appendix B; and the Commission's Office of General Counsel and Division of Communications.

ATTACHMENT A

STATE CORPORATION COMMISSION
Division of Communications

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CHAPTER 413

RULES GOVERNING DISCONNECTION OF LOCAL EXCHANGE TELEPHONE SERVICE

20 VAC 5-413-5. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Ancillary services" mean a service or services that are supplemental or incidental to the provision of basic telephone service, including but not limited to, directory assistance, directory listings, voice mail, vertical services, or detailed billing.

"Basic bundle" means a bundled service that includes basic telephone service and additional service components in the designated group of services. The additional service components of the basic bundle are limited to vertical and ancillary services, interstate and intrastate interexchange services provided by the LEC or an affiliated carrier of the LEC, or any combination of these additional components.

"Basic telephone service" means the customer's dial tone line and local usage. Local usage can be purchased on a flat rate, measured, or per message basis, or some combination thereof.

"Bona fide dispute" means (i) a dispute on an identified charge or charges between the LEC and its customer that is being investigated and is pending a determination by the LEC, or (ii) a dispute on an identified charge or charges being investigated and pending disposition by the commission.

“Bundled service” means a designated group of services or products offered to customers at a package or set price. A bundled service may consist of regulated and nonregulated services or products.

“Commission” means the State Corporation Commission.

“Customer” means any person, firm, partnership, corporation, or lawful entity that purchases local exchange telecommunications services.

“Dial tone” means the audible sound that a customer hears when the telephone is taken off hook. The sound advises a customer that the telephone line is active and available for use.

“Disconnect” means the LEC’s intentional cessation of service or services to a customer.

“Fee or surcharge” means an additional charge appearing on the customer’s bill separate from the rates and charges for a service or product. These charges may be specifically authorized by a regulatory or legislative body, or in other instances, may be initiated by a LEC or other carrier.

“Interexchange carrier” (“IXC”) means a carrier that offers interexchange long distance telecommunications services.

“Interexchange service” means interexchange telephone service as defined by § 56-1 of the Code of Virginia.

“Interstate” means service that originates in one state and terminates in another state.

“Intrastate” means service that originates and terminates within a state.

“Local exchange carrier” (“LEC”) means a certificated provider of local exchange services.

“Local exchange service” or “local exchange services” for purposes of this chapter means the offerings provided by a LEC certificated pursuant to Chapter 10.1 (§ 56-265.1 et. seq.) of Title 56 of the Code of Virginia.

“Selective toll blocking” means the ability to block calls from a specific customer’s telephone line or lines from being routed to, or carried by, a specific IXC.

“Subscriber line charge” (“SLC”) means a per line charge allowed by the Federal Communications Commission appearing on a customer’s local telephone bill intended to recover a portion of a LEC’s interstate costs. A SLC or comparable charge may be identified on the bill by other names, such as access line charge or end user common line charge.

“Telecommunications relay service” (“TRS”) means telecommunications relay service as defined by § 56-484.4 of the Code of Virginia or successor statute.

“Universal service fund” (“USF”) means a federal government program, the goal of which is to help make telephone service affordable and available to all households. The USF provides support for low income households, high cost (i.e. rural) LECs, schools and libraries, and rural healthcare. The USF is funded by assessments on telecommunications carriers, many of which charge their customers a fee to recover the assessments.

“Vertical services” means optional, advanced calling features associated with a customer’s basic telephone service such as, but not limited to, the ability to identify callers and manage multiple calls.

20 VAC 5-413-10. Disconnection of local exchange service for failure to pay.

A. ~~A Local Exchange Carrier ("LEC") may terminate~~ disconnect local exchange services, including basic telephone service only, for a customer's failure to pay fully for nonecompetitive such local exchange services billed on behalf of the LEC or basic telephone service when ~~the local exchange~~ those services are found in tariffs the LEC's tariff on file with the State Corporation Commission commission and there is no bona fide dispute concerning ~~the~~ those services. ~~A LEC may not terminate local exchange service for a customer's failure to pay for the LEC's intraLATA toll services.~~

B. A LEC may disconnect a bundled service for a customer's failure to pay fully for the bundled service when the bundled service is considered a basic bundle and the description and full price of the basic bundle are found in the LEC's tariff on file with the commission, and there is no bona fide dispute concerning the basic bundle.

C. A LEC may disconnect local exchange services, including basic telephone service, or a basic bundle identified in subsections A and B, for a customer's failure to pay the SLC, USF, or TRS fees or surcharges billed by the LEC. If billed on behalf of an affiliate, the SLC, USF, or TRS fees or surcharges or a portion thereof must be associated with a basic bundle.

1. The LEC must provide written notice to the commission's Division of Communications of the SLC, USF, or TRS fees or surcharges. This notice shall include the fee or surcharge name as it appears on the customer's bill, an explanation of the charge, and the billed amount. The LEC is responsible for the timely submission of information to the Division of Communications on any changes to the amount, name, explanation, or applicability of the fees or

surcharges. A LEC shall not disconnect a customer's local exchange services, including basic telephone service, or a basic bundle, for failure to pay any of these fees or surcharges if this notice has not been submitted to the Division of Communications, or the information provided is not current.

2. The SLC, USF, and TRS fees and surcharges must be separately identified on the customer's bill for the LEC to have authority to disconnect local exchange services, including basic telephone service, or a basic bundle, for nonpayment of any of these fees or surcharges.

D. A LEC may disconnect any local exchange service that the LEC is not required by the commission to include in tariffs on file with the commission for nonpayment of such service; however, the LEC may disconnect only those nontariffed local exchange services for a customer's failure to pay for those nontariffed local exchange services.

E. Nothing in this chapter is intended to alter the responsibility of a customer to pay for services or products used or subscribed to, or other charges that appear on the customer's bill from a LEC.

20 VAC 5-413-20. Notice Customer bill and directory information.

A. ~~LECs~~ A LEC shall indicate on a customer's ~~monthly bills~~ bill either those items for which ~~service~~ local exchange services, including basic telephone service, or a basic bundle, may be ~~terminated~~ disconnected, or those items for which such service ~~services~~ may not be ~~terminated~~ disconnected for failure to pay, and shall include an explanation, by footnote or otherwise, that local ~~telephone service~~ exchange services,

including basic telephone service, or a basic bundle, may not be ~~terminated~~ disconnected
for failure to pay for ~~certain~~ other services.

B. The form of this notification and any subsequent modifications must receive prior approval from the commission's Division of Communications.

C. LEC White Pages telephone directories shall include an explanation of the services for which local exchange ~~service~~ services, including basic telephone service and basic bundles, may be ~~terminated~~ disconnected for failure to pay, an explanation that billing disputes may be referred to the commission's Division of Communications, and a listing of the division's toll-free and local telephone numbers.

20 VAC 5-413-25. Customer notice of disconnection.

A. A LEC shall provide a customer written notice by mail, or may use e-mail notice if the customer elects to be billed electronically, of the potential disconnection of basic telephone service or a basic bundle. Notice shall be sent separate from the customer's bill, and must be mailed at least 10 days prior to the planned disconnection date stated on the notice.

B. A LEC may be permitted to provide the notice required in A in a different format or vehicle if a request with supporting rationale is submitted to and approved by the Division of Communications.

C. The notice shall clearly identify the amount that must be paid to prevent disconnection of the customer's basic telephone service or a basic bundle. That amount may or may not be the total outstanding amount owed to the LEC. The notice shall also

include the date by which the payment must be received by the LEC to avoid disconnection.

D. The notice shall include the toll-free number of the LEC for customer inquiries about the notice or to make payment arrangements.

20 VAC 5-413-30. Access to ~~other~~ interexchange carriers.

~~A LEC billing on behalf of an interexchange carrier may, together with the interexchange carrier, block a customer's access to the interexchange carrier when the toll charges of the interexchange carrier , at the request of an IXC, may use selective toll blocking to restrict a customer's access to that IXC when the long distance charges of that IXC have not been paid by that customer; but the LEC may not block that customer's access to other interexchange carriers~~ IXCs for such nonpayment.

20 VAC 5-413-35. Customer billing disputes.

A. Any billing dispute between the LEC and a customer that is being investigated by the LEC shall be considered a bona fide dispute until the LEC completes its investigation and advises the customer of its determination. The customer's service or services, which are subject to the dispute, shall not be disconnected pending resolution of a bona fide dispute.

B. Any billing dispute between a customer and a LEC that is being investigated by the Division of Communications shall be considered a bona fide dispute until such time as the Division of Communications completes its investigation and advises the customer and LEC of the disposition of the dispute. A customer's service or

services, which are subject to the dispute, shall not be disconnected pending resolution by the Division of Communications of a bona fide dispute.

C. A customer with a bona fide dispute under investigation by either the LEC or commission is required to pay on time the undisputed portion of the bill. If requested, the LEC shall assist the customer with determining the undisputed portion of the bill, including any associated taxes, surcharges, and fees.

20 VAC 5-413-40. Payment ~~credit~~ credits.

Customer payments that are less than the total bill balance shall be credited first to ~~any noncompetitive~~ tariffed local exchange services, with any including basic telephone service, basic bundles, and fees and surcharges, where nonpayment would result in a customer being disconnected from basic telephone service or a basic bundle. Any remainder shall be credited to any other charges on the bill.

20 VAC 5-413-50. Waiver.

The commission may, at its discretion, waive or grant exceptions to any provision of this chapter.